

REMARKSAmendments to the Specification

Applicants have amended the specification to include the chemical name for PR 39 and to include SEQ ID NO: 1 as required by 37 C.F.R. § 1.821(d).

Applicants have also amended the specification to correct inadvertent typographical errors. The word "and" preceding Metronidazole was removed. The compound HMR3647 was deleted as the identical compound HMR 3647 was duplicated in the paragraph. The words "eveninomycin" and "glycylcylcline" were corrected to read "everninomicin" and "glycylcycline." Similarly, the word "oxazolidinone" was corrected to read "oxazolidinones." No new matter has been added.

Amendments to the Claims

Claims 1, 2, 5-12, 15-27, and 30-32 were pending in the present application. Applicants have amended claim 5 to depend from claim 1 and to delete the dependency from claim 2.

Claims 6 and 7 have been amended to depend from amended claim 5. Support for these amendments can be found in originally filed claims 6 and 7.

Claim 9 has been amended to correct an inadvertent typographical error in variable X that should have read variable X⁴. Support for this amendment can be found for example, on page 22, second paragraph through page 23, line 2.

Claim 23 has been amended to delete the reference to "related drugs," "its combinations," "including sulfonamides," "including nitrofurans, methenamine mandlate and methenamine hippurate," "CL331022," "A-99058.1," "A-165600," "A-179796," "HGP-31," "Mersacidin," "Kosan," "AM 1732," "OPC 20000," "OPC 2045," "Venepprim," "Cyclothialidine," "SEP-132613," "SB-275833," and "SUN A0026" and to recite appropriate chemical names in addition to various trademark names. In addition,

Applicants have amended claim 23 to recite SEQ ID NO:1. Applicants have also amended claim 23 to correct typographical errors. The word "and" preceding Metronidazole was removed. The first occurrence of "HMR3647" was deleted. The words "eveninomycin" and "glycylcylcline" were corrected to read "everminomicin" and "glycylcycline." Similarly, the word "oxazolidinone" was corrected to read "oxazolidinones."

Claim 33 was added to incorporate matter that was deleted from claim 5 and was dependent only upon claim 2. Support for this amendment can be found in originally filed claim 5 and throughout the specification. *See, e.g.*, page 19, last line through page 20. New claims 34 and 35 were added to incorporate matter that was deleted from claims 6 and 7. Support for these amendments can be found in originally filed claims 6 and 7.

Applicants have added claim 36 to recite subject matter canceled from amended claim 23 (i.e., wherein anti-folate agents are sulfonamides, or synthetic antibacterials are selected from nitrofurans, methenamine mandelate and methenamine hippurate). Support for added claim 34 is found throughout the specification and in original claim 23.

Accordingly, upon entry of the instant amendments, claims 1, 2, 5-12, 15-27, and 30-36 will be pending in this application. None of the amendments introduces new matter.

Provisional Obviousness-Type Double Patenting Rejection

Claims 1 and 2 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of the co-pending United States patent application 09/739,535.

Applicants will address compliance with 37 C.F.R. §§ 1.321(b) and (c) if and when the claims in the instant application are allowable.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 5-7 and claim 9 stand rejected under 35 U.S.C. § 112, second paragraph, for allegedly failing to particularly point out and distinctly claim the subject matter which applicants regard as their invention.

The Office Action states that claim 5 is indefinite because the claim "recites that variable 'R²⁰⁰' can be hydrogen, heterocyclyl or heteroaryl" and that "none of these (hydrogen, heterocyclyl or heteroaryl) is permitted by claim 2, upon which claim 5 depends." Office Action at 3. The Office Action also states that claim 5 "recites that variable 'R²⁰⁰' can be aryl; however, this possibility is precluded from claim 1." *Id.* Applicants have amended claim 5 to depend from claim 1 only and have deleted the term "aryl" from claim 5.

Claims 6 and 7 have been amended to depend from amended claim 5. Claim 6 has been amended to delete the term "substituted phenyl" and claim 7 has been amended to delete the biphenyl structure.

Claim 9 stands rejected because variable "X⁴" appears in one structure, but is undefined; and variable "X" is defined, but does not appear in any of the structures. Applicants have amended the claim to correct the typographical error by removing the term "X" and inserting the term "X⁴".

Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 112, second paragraph.

Claim 23

The Office Action suggests that claim 23 be amended to define all terms that are identified by trademark only.

Applicants have: 1) deleted the phrases "related drugs," "its combinations," and "including sulfonamides" from amended claim 23; 2) deleted recitation of "CL331022,"

Claim 23

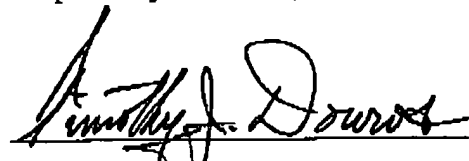
The Office Action suggests that claim 23 be amended to define all terms that are identified by trademark only.

Applicants have: 1) deleted the phrases "related drugs," "its combinations," and "including sulfonamides" from amended claim 23; 2) deleted recitation of "CL331022," "A-99058.1," "A-165600," "A-179796," "HGP-31," "Mersacidin," "Kosan," "AM 1732," "OPC 20000," "OPC 2045," "Vencprim," "Cyclothialidine," "SEP-132613," "SB-275833," and "SUN A0026"; and 3) recited the corresponding chemical names for various trademark names. In addition, Applicants have amended claim 23 to recite SEQ ID NO:1. Applicants have also amended claim 23 to correct certain typographical errors. Applicants have deleted the word "and" preceeding Metronidazole. The first occurrence of "HMR3647" was deleted. The words "eveninomycin," "glycylcylcline" and "oxazolidinone;" were corrected to read "everminomicin," "glycylcycline" and "oxazolidinones."

CONCLUSION

For the reasons presented above, Applicants respectfully request reconsideration and prompt allowance of all pending claims. No fee is believed due in connection with the filing of this Amendment. However, the Commissioner is authorized to deduct any deficient amount or credit any surplus amount to Deposit Account No. 50-1986.

Respectfully submitted,



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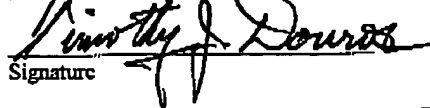
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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being sent via Facsimile to facsimile number (703) 872-9306 to: *Assistant Commissioner for Patents, Attention: Examiner Lukton, Washington, DC 20231* on May 27, 2003.

Name: Timothy J. Douras



Signature

May 27, 2003
Sig. Date